



# State of Wisconsin

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STEPHEN R. MILLER  
CHIEF

October 4, 2005

## MEMORANDUM

**To:** Representative Wieckert

**From:** Joseph T. Kreye, Sr. Legislative Attorney, (608) 266-2263

Marc E. Shovers, Sr. Legislative Attorney, (608) 266-0129

**Subject:** Technical Memorandum to **2005 AB-641** (LRB 05-3310/1)

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We received the attached technical memorandum relating to your bill. This copy is for your information and your file. If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

## MEMORANDUM

September 27, 2005

**TO:** Joseph Kreye  
Marc Shovers  
Madelon Lief  
Legislative Reference Bureau

**FROM:** Rebecca Boldt  
Department of Revenue

**SUBJECT:** Technical Memorandum on AB 641: Individual and Corporate Income Tax Credit for Certain WHEFA Bonds Re: Educational Facility

Under current federal law, U.S. government obligations are exempt from all state and local taxes except nondiscriminatory franchise taxes. If, as a result of this bill, Wisconsin's franchise tax was determined to be discriminatory because it exempted WHEFA obligations from tax, but not U.S. obligations, the franchise tax could be invalidated. This would substantially increase the fiscal effect of the bill.

The bill requires a pass-through entity to compute the amount of credit allowable to its partners, members, or shareholders. Since these entities are not subject to tax, they do not have a marginal tax rate and therefore cannot compute the amount of the credit. In addition, the marginal tax rate may not be the same for all of the entity's partners, members, or shareholders. As a result, the Department suggests that the language be amended to require the pass-through entity to inform its partners, members, or shareholders of their share of the interest income in proportion to their ownership interest. The partner, member, or shareholder would then multiply the pro rata share of interest by the person's own marginal tax rate.

The title for the credit, "WHEFA Information Technology Bond Tax Credit," seems to be inappropriate since the credit would apply to bonds issued to finance any project undertaken for an educational facility.

The bill would allow the credit for nonresidents. Interest income of nonresidents is not taxable to Wisconsin. The Department suggests allowing the credits to part-year residents, but not to nonresidents, based on the interest income from the bonds that is taxable to Wisconsin so that prorating the credit would not be necessary.

If you have any questions regarding this technical memorandum, please contact Pam Walgren at 266-7817.

cc: Rep. Wieckert